

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA,

Plaintiff,

v.

**MARK CLARKE, SANDRA CLARKE,
DAVID CLARKE and JUAN SOLIS,**

Defendants.

No. 08-30170-DRH

ORDER

HERNDON, Chief Judge:

Now before the Court is the Government's April 4, 2011 motion to continue trial (Doc. 481). The Government moves to continue the trial as two co-defendants, Sandra Clarke and Juan Solis, remain fugitives and their whereabouts are unknown. Clearly, the Court finds that under the circumstances a continuance is warranted. Pursuant to **18 U.S.C. § 3161(h)(3)(A)**, the Court **GRANTS** the motion to continue (Doc. 481). The Court **CONTINUES** the jury trial scheduled for April 18, 2011 to Monday, July 11, 2011, at 9:00 a.m.

As noted in previous Orders, co-defendants Sandra Clarke and Juan Solis still remain fugitives and have not been arraigned. Because the Speedy Trial clock does not begin to run until the last co-defendant is arraigned, the 70-day window for conducting this trial has not yet come into play under the Speedy Trial Act. *See United States v. Larson*, 417 F.3d 741, 745 n.1(7th Cir. 2005)(“In the typical joint trial, the Speedy Trial clock begins when the last codefendant is

arraigned.”)(citing *United States v. Baskin-Bey*, 45 F.3d 200, 203 (7th Cir. 1995); *Henderson v. United States*, 476 U.S. 321, 323 n.2 (1986); 18 U.S.C. § 3161(h)(7)); *United States v. Souffront*, 338 F.3d 809, 835 (7th Cir. 2003)(The Court found that the seventy-day clock commenced the day a fugitive – also the final co-defendant in the case - was arraigned). Thus, there is no need to account for excluded time due to trial delays, such as when a trial is continued.

Should either party believe that a witness will be required to travel on the Justice Prisoner and Alien Transportation System (JPATS) in order to testify at the trial of this case, a writ should be requested at least two months in advance.

IT IS SO ORDERED.

Signed this 4th day of April, 2011.


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David R. Herndon
Date: 2011.04.04
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**Chief Judge
United States District Court**